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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/797,401

03/09/2004

Marc Radow

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03/17/2009

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EXAMINER

GROSSO, HARRY A

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

03/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/797,401	Applicant(s) RADOW, MARC	
	Examiner HARRY A. GROSSO	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-23 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-23 and 29-33 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8 and 10 is/are rejected.
- 7) ☒ Claim(s) 6 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 23, 2009 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyu et al (Lyu) in view of Phalin, both of record.

4. Regarding claim 1, Lyu discloses a receptacle having a recessed portion (Figures 1-2, column 2, lines 24-32), a convex raised portion (14) and a vertical outer wall (12). Lyu discloses the raised portion in the bottom (Figure 1) extending a first distance to an upper position (H2) that would be about one-half inch for a receptacle having a diameter of about 3.5 inches and increases to other heights less than two inches as the receptacle diameter increases. The raised portion is substantially circular and has a diameter of about 3.0 inches for the receptacle having a diameter of about

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3.5 inches and increases as the receptacle diameter increases. Lyu does not teach the exterior area extending partly upward to a second distance greater than the first distance to a rim. Phalin discloses a similar receptacle with a bottom wall having a convex raised portion and a vertical outer wall extending upwardly a second distance greater than the first distance to a rim. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a receptacle with a vertical outer wall extending upwardly a second distance greater than the first distance to a rim as disclosed by Phalin in the receptacle disclosed by Lyu since it is known in the art to utilize containers with these dimensions.

5. Regarding claim 2, Lyu discloses the raised portion is a continuous closed surface.

6. Regarding claim 3, Lyu discloses the raised portion is substantially dome shaped.

7. Regarding claims 4 and 5, Lyu discloses the first distance from the recessed portion to a top-most portion can be approximately three-quarter inch for a receptacle with a diameter of about 4.0 inches.

8. Regarding claim 7, in the receptacle of Lyu as modified by Phalin, the outer wall portion extends substantially vertically.

9. Regarding claim 8, Lyu discloses a receptacle having a substantially circular outer wall portion and Phalin discloses a receptacle having a substantially circular outer wall portion with diameters up to 4.25 inches (column 1, lines 49—56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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have incorporated the use of receptacles up to 4.25 inches in diameter as disclosed by Phalin in the receptacle disclosed by Lyu since it is known in the art to produce receptacles up to this diameter.

10. Regarding claim 10, in the receptacle of Lyu as modified by Phalin, the second distance is at least twice the first distance.

Allowable Subject Matter

11. Claims 12-23 and 29-33 are allowed.

12. Claims 6 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments with respect to claims 1-8, 10 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARRY A. GROSSO whose telephone number is (571)272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harry A. Grosso
/Harry A. Grosso/
Examiner, Art Unit 3781

hag